IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE G. BIKSHAPATHY

AND
THE HON'BLE SRI JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION Nos. 15867, 16084, 16112, 16113 &

16430 of 2004

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W.P.No. 15867 of 2004

Between:

Bonthu Pydamma @ Pydithalli, W/o Venkataramana,
R/o Rajahmundry.

..... PETITIONER

AND

1 State of A.P. rep by Secretary, General Administration Department,

Secretariat, Hyderabad.
2 District Collector & District Magistrate, East Godavari at Kakinada.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Habeas Corpus, directing the respondents to produce the detenue Bonthu Venkataramana @ Venkanna S/o Abaddam, Hindu, aged about 43 years, Caste: Setti Balija R/o Alka Gardens, Rajahmundry, who is the husband of the petitioner herein into the court by declaring the order of detention as illegal, null and

void and violation of fundamental rights particularly private liberty of an individual guaranteed under the Constitution of India and for a consequential order to set the detenue at liberty.

Counsel for the Petitioner : Mr.CH.DHANAMJAYA

Counsel for Respondents : THE ADVOCATE GENERAL

W.P.No. 16084 of 2004

Between:

J. Mohan , S/o Rasool,
R/o 22-5-29, Desaipet, Warangal, Warangal District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by the Chief Secretary, Secretariat, Hyderabad.
2 The Collector & District Magistrate, Warangal District, Warangal.
3 The Superintendent, Central Prisons, Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Habeous Corpus directing the respondents to produce the detenue Juluri Chander S/o Rasool, aged 25 years, R/o Desaipeta, Warangal Town, Warangal District, now detained in Central Prison, Warangal before this Court and he may be released forthwith after declaring the order of detention dated 17-8-2004 in RC.No. 1610/2004/PE &/A3-1, passed by the Collector and District Magistrate, Warangal, which was approved by the Government of Andhra Pradesh vide G.O.Rt.No. 4897, General Administration (Law and Order-II) Department dated 25-8-2004

Counsel for the Petitioner : Mr.A.PRABHAKAR RAO

Counsel for Respondents : THE ADVOCATE GENERAL

W.P.No. 16112 of 2004

Between:

Akula Shama W/o Akula Mallesham
R/o Laxmipuram, Hanamkonda, Warangal District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by the Chief Secretary, Secretariat, Hyderabad.
2 The Collector & District Magistrate, Warangal District, Warangal.
3 The Superintendent, Central Prisons, Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Habeas Corpus directing the respondents to produce the detenue Akula Mallesham S/o Narayana, aged 40 years, R/o Hanamkonda, Warangal district, now detained in Central Prison, Warangal before this Court and he may be released forthwith after declaring the order of detention dated 17-8-2004 in RC.No. 1610/2004/P&E/A3-4, passed by the Collector and District Magistrate, Warangal, which was approved by the Government of Andhra Pradesh vide G.O.Rt.No. 4898, General Administration (Law and Order-II) Department dated 25-8-2004.

Counsel for the Petitioner : Mr.A.PRABHAKAR RAO

Counsel for Respondents : THE ADVOCATE GENERAL

W.P.No. 16113 of 2004

Between:

G.Srinivas S/o Poshalu,
R/o Vendapadu, Hasanparthy Mandal, Warangal District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by the Chief Secretary, Secretariat, Hyderabad.
2 The Collector & District Magistrate, Warangal District, Warangal.
3 The Superintendent, Central Prisons, Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Habeas Corpus directing the respondents to produce the detenue Pogu Ejjigiri S/o Sri Ankoos, aged 27 years, R/o Vangapahad, Hasanparthy, Warangal district, now detained in Central Prison, Warangal before this Court and he may be released forthwith after declaring the order of detention dated 18-8-2004 in RC.No. 1610/2004/P&E/A3-3, passed by the Collector and District Magistrate, Warangal, which was approved by the Government of Andhra Pradesh vide G.O.Rt.No. 4899, General Administration (Law and Order-II) Department dated 25-8-2004.

Counsel for the Petitioner : Mr.A.PRABHAKAR RAO

Counsel for Respondents : THE ADVOCATE GENERAL

W.P.No. 16430 of 2004

Between:

Kandimalla Mahesh S/o Sambaiah,

R/o 20-14-217, East Fort, Warangal, Warangal dist.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep. by the Chief Secretary, Secretariat, Hyderabad.
2 The Collector & District Magistrate, Warangal District, Warangal.
3 The Superintendent, Central Prisons, Warangal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Habeas Corpus directing the respondents to produce the detenue Kandimalla Sambaiah S/o Mallaiah, aged 40 years, R/o 20-14-217, East Fort, Warangal, Warangal district, now detained in Central Prison, Warangal before this Court and he may be released forthwith after declaring the order of detention dated 17-8-2004 in RC.No. 1610/2004/P&E/A3-2, passed by the Collector and District Magistrate, Warangal, which was approved by the Government of Andhra Pradesh vide G.O.Rt.No. 4890, General Administration (Law and Order-II) Department dated 25-8-2004.

Counsel for the Petitioner : Mr.A.PRABHAKAR RAO

Counsel for Respondents : THE ADVOCATE GENERAL

The Court made the following :

COMMON ORDER: (per the Hon'ble Sri Justice G.Bikshapathy)

All these writ petitions can be disposed of by a common order, as the detenus in all these cases alleged infraction of sub-clause (5) of Article 22 of the Constitution of India. The detaining authority passed an order detaining the detenus under the provisions of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

2. Apart from going into the merits of the case, the principal contention raised by the learned Senior Counsel Sri C.Padmanabha Reddy is that the detenus have a right to be informed by the detaining authority under Article 22(5) of the Constitution of India that they have a right of representation to the detaining authority and that was not mentioned in the detention order. It was only stated that the detenus have a right to represent to the Government of Andhra Pradesh or the Advisory Board, but there was no mention with regard to representation to the detaining authority. Therefore, relying on the judgment of the Supreme Court in **KAMLESH KUMAR ISHWARDAS PATEL v. UNION OF IDIA AND OTHERS**, and followed by later decision in **UNION OF INDIA AND ANOTHER v. SNEHA KHEMKA AND ANOTHER**, the learned counsel would submit that the detention order is vitiated. We have heard the learned Advocate General.

3. We have perused the detention order in all these cases and find that the detaining authority did not state in the order that the detenus have a right to represent to the detaining authority. Under these circumstances, keeping in view the principle laid down by the Supreme Court in the above referred decisions, the detention orders are liable to be set aside.

4. In the result, the writ petitions are allowed and the orders of detention passed by the Collector & District Magistrate are hereby set aside and the detenus shall be set at liberty forthwith, if they are not required in any other crime.

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G.BIKSHAPATHY, J

CH.S.R.K.PRASAD, J

Date: 4.10.2004

DA

To

1 The Secretary, State of A.P., General Administration Department,

Secretariat, Hyderabad.
2 District Collector & District Magistrate, East Godavari at Kakinada.

3 The Chief Secretary, Government of Andhra Pradesh,
Secretariat, Hyderabad.
4 The Collector & District Magistrate, Warangal District, Warangal.
5 The Superintendent, Central Prisons, Warangal, Warangal District.

6 Two CCs to the Advocate General, High Court Buildings,
Hyderabad (OUT).

7 Two spare copies.